OFFICE OF THE ETHICS COMMISSIONER
PROVINCE OF ALBERTA

Report to the Speaker of the Legislative Assembly of Alberta

of the Investigation

by the Ethics Commissioner

into allegations involving Hon. Mike Cardinal, Minister of Sustainable Resource Development and Member for Athabasca-Wabasca

August 19, 2002

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ALLEGATION

On June 12, 2002, a letter was received from Dr. Raj Pannu, Leader of the New Democrat Opposition and Member for Edmonton-Strathcona, requesting an investigation into a possible breach of the *Conflicts of Interest Act* by the Hon. Mike Cardinal, Minister of Sustainable Resource Development ("Mr. Cardinal" or "the Minister"). The matter to be investigated was set out as follows.

> The question to be investigated involves a recent decision by the Minister to open a portion of Calling Lake, a collapsed lake, to pike and walleye fishing. The most recent public disclosure statement filed by Mr. Cardinal indicates that he owns a secondary residence and recreational property at Calling Lake.
>
> The question is whether the above policy decision, in which the Minister was apparently personally involved, could in any way further the Minister's private interest in violation of Section 2 of the Act. It seems apparent that any decision to open a particular lake to fishing, while maintaining a fishing ban on other lakes, would increase the value of recreational properties on the lake open to fishing. Moreover, I also ask that you investigate whether the Minister used his influence or insider information to further his private interest in possible violation of Sections 3 and 4 of the Act.

On June 19, 2002, both the Minister and Dr. Pannu were advised that an investigation would be conducted pursuant to section 24 of the Act.

The sections of the *Conflicts of Interest Act* (2000 Revised Statutes of Alberta, c. C-23) alleged to have been breached are:

Part 2 Obligations of Members

2 (1) A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

(2) Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must, if present at the meeting, declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.

(3) A Member who fails to comply with subsection (2) breaches this Act.

(4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

(5) In the case of a meeting of the Legislative Assembly or a committee of it, where a Member has complied with subsection (2), the Clerk of the Legislative Assembly or the secretary of the meeting shall file with the Ethics Commissioner, as soon as practicable, a copy of the deliberations and proceedings, as recorded in Alberta Hansard, of the meeting from which the Member withdrew.

(6) In the case of a meeting of the Executive Council or a committee of it, where a Member has complied with subsection (2), the secretary of the meeting shall record (a) the declaration, (b) the general nature of the private interest declared, and (c) the withdrawal of the Member from the meeting.

(7) The secretary of the meeting shall file the information recorded under subsection (6) with the Ethics Commissioner as soon as practicable after the meeting.

(8) Information filed with the Ethics Commissioner under subsection (7) is confidential and may not be disclosed or inspected, but the information may be inspected and used by the Ethics Commissioner if the information is likely to be material in determining whether a Member has breached this Act.

(9) If no record was kept of who was present at a meeting at the time a matter for decision arose in which a Member, a Member's minor child or a person directly associated with a Member had a private interest, no inference that the Member was present at the meeting at the time the matter arose can be made for the purposes of determining whether there was a breach under subsection (2). 1991 cC-22.1 s2;1998 c33 s5

3 A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child. 1991 cC-22.1 s3

4 A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child. 1991 cC-22.1 s4

PRIVATE INTEREST OF HON. MIKE CARDINAL

The *Conflicts of Interest Act* does not define the term "private interest." In section 1(1)(g), the Act lists several things that a "private interest" does not include:

1(1)(g) "private interest" does not include the following:
(i) an interest in a matter
  (A) that is of general application,
  (B) that affects a person as one of a broad class of the public, or
  (C) that concerns the remuneration and benefits of a Member;
(ii) an interest that is trivial;
(iii) an interest of a Member relating to publicly-traded securities in the Member's blind trust;

In this investigation, the "private interest" alleged to have been furthered relates to properties owned by the Minister at Calling Lake. Mr. Cardinal owns the following properties at Calling Lake:

Residence – Calling Lake	Lot 4, Block 8C, Plan 8321845
Lot – Calling Lake	Lot 5, Block 8C, Plan 8321845
Lot – Calling Lake	Lot 5, Block 3, Plan 3280RS
Lot – Calling Lake	Lot 5, Block 4, Plan 3280RS

There have been public comments relating to the opportunity provided to Mr. Cardinal to fish for walleye and his status under the *Indian Act* of Canada (Treaty 8 Status). I do not consider that matter to be a "private interest" under the Act. Mr. Cardinal's ability to sportfish for walleye is no different than any other person, whether they have status under the *Indian Act* or not. Under the 2002 Alberta Guide to Sportfishing Regulations:

> Sportfishing by Indians
> Indians do not need an Alberta Sportfishing Licence or WIN card for general sportfishing; however, they must have a WIN card and Sturgeon Fishing Licence before keeping a sturgeon (see Sturgeon Sportfishing). All sportfishing regulations must be followed. Indians are persons registered as Indians under the *Indian Act* (Canada).

Neither Mr. Cardinal nor his wife is involved in domestic fishing operations nor do they hold a commercial fishing licence. In accordance with the sportfishing regulations, the zero bag limit[1] applied to Mr. Cardinal, and the new regulation allowing one walleye to be in an angler's possession applies to Mr. Cardinal. That being the case, there is no "private interest" as the *Conflicts of Interest Act* says that a "private interest" does not include an interest in a matter of general application or that affects a person as one of a broad class of the public (i.e. all sportfishing anglers). Mr. Cardinal confirms in his Statutory Declaration that he does abide by the sportfishing regulations.

PERSONS INTERVIEWED

The following individuals were interviewed during the course of the investigation:

Hon. Mike Cardinal, Minister of Sustainable Resource Development and Member of the Legislative Assembly for Athabasca-Wabasca
Ken Ambrock, Assistant Deputy Minister, Fish and Wildlife Service, Sustainable Resource Development
Hugh Norris, Head, Fisheries Resources, Allocation and Use Branch, Sustainable Resource Development
Betty Kanuga, Century 21 Real Estate, Athabasca
Bill Cruthers, District Conservation Officer, Sustainable Resource Development, Athabasca
Todd Ponich, Conservation Officer, Sustainable Resource Development, Athabasca
François Auger, Calling Lake resident
Ralph Crawford, Calling Lake resident
Avard Mann, Calling Lake resident
Jim McFarland, Calling Lake resident
Ken Walton, Calling Lake resident
Ralph and Connie Johnson, Chain Lakes area residents
Dr. Joseph Nelson, Professor, Department of Biological Sciences, University of Alberta (via phone)
Roger Patton, Past President and Secretary, Western Walleye Council (via phone)
Kerry Brewin, Alberta Council Manager and Biologist, Trout Unlimited Canada (Alberta Council)
Steven Hull, Managing Director, Alberta Conservation Association ("ACA")
Bill Patterson, Biologist, Alberta Conservation Association

[1] "The number of fish you are allowed to keep while fishing in one day is equal to the limit listed for each species or group of species at the lake or stream being fished, including any fish eaten or given away that day" (page 20 of the 2002 Alberta Guide to Sportfishing Regulations).

In addition to interviews, Statutory Declarations were requested and received from:

Hon. Mike Cardinal, Minister of Sustainable Resource Development
Dr. Bob Fessenden, Deputy Minister, Sustainable Resource Development
Executive Council (completed by Deborah Owram, Deputy Secretary to Cabinet)

Executive Council provided me with confidential documents for review. Those documents have been returned to Executive Council. Dr. Fessenden also provided me with numerous documents for my review. Those documents will not be released with this report. The relevant information from those documents is included in Dr. Fessenden's Statutory Declaration.

The residents of the Athabasca/Calling Lake area (including Mrs. Kanuga) who were interviewed during this investigation were recommended by Mr. Cardinal's office. The realtor was also recommended by another realtor in Athabasca who said that Mrs. Kanuga was the realtor with the most knowledge of or familiarity with Calling Lake properties. The Conservation Officers mentioned two of the residents by name during the interview at the Fish and Wildlife office. They commented that those two residents were contact or liaison persons with their communities. Two of the individuals interviewed had personal family relationships with the Minister or his office.

I am satisfied in all cases that the residents interviewed were credible and participated because they had personal knowledge of Calling Lake and the fish populations of the lake. The information they provided was very useful and their cooperation and participation is appreciated.

I wish to also thank departmental officials, conservationists, and all other persons interested in fisheries management who participated in this investigation. Their knowledge and experience were of enormous benefit to us. I am also appreciative of and impressed with their commitment to conservation.

BACKGROUND RELATING TO WALLEYE, FISHERIES MANAGEMENT AND CALLING LAKE PILOT PROJECT

While the Minister's role in the decision to open a portion of Calling Lake for fishing is within my jurisdiction and is the subject of this investigation, the decision itself is not within my jurisdiction. The appropriateness of opening all or part of a "collapsed lake"[2] to fish harvesting is not within my mandate. However, I believe it is necessary in this report to provide a background on both walleye and the government's activities and decisions relating to the status of Calling Lake and the management of walleye and fisheries generally in Alberta. I will also make a brief comment on ministerial responsibility later in this report.

I. Walleye

A brochure on walleye was created in February 1996 by Alberta Environmental Protection. It is one of a series of brochures produced by Fisheries officials on Alberta's fish species. The following basic information about walleye is contained in that brochure:

> The walleye is the largest member of the perch family . . .. In Alberta, the common name "pickerel" is often used for walleye, but this is technically incorrect, since "pickerel" is the accepted common name applied to certain types of pike found in eastern Canada . . ..

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2 See chart on page 5 for the classifications given to Alberta lakes with respect to walleye and to pages 1 and 2 of the Statutory Declaration of Dr. Bob Fessenden for an explanation of the classification assigned to Calling Lake.

Walleye populations occur in 64 large river systems and an estimated 177 lakes and reservoirs throughout the province. Even though these statistics would suggest that walleye are abundant in Alberta, in many of these water bodies, the numbers of walleye surviving to spawning age are too few to maintain self-sustaining populations . . ..

. . . a male walleye is fully mature at about 43 cm in length and 700 g in weight, by age seven. Females reach maturity at about 50 cm in length and 1590 g in weight, after age nine. Walleye in Alberta are capable of living to ages as old as 30 years.

. . . walleye fry often have a high mortality rate during the time between spawning and first feeding. Biologists have estimated that fewer than 1% of walleye eggs survive to become adult fish . . ..

The following information regarding walleye is contained in the "Walleye Management and Recovery Plan" prepared in December 1995 by David K. Berry, Recreational Fisheries Coordinator, Alberta Environmental Protection.

. . . Eight lakes make up about 65 percent of the total area of lakes containing walleye, with the Alberta portion of Lake Athabasca accounting for 29 percent of the total area. Approximately 75 percent of the lakes with walleye, 89 percent by area, are located north of Edmonton.

The following chart showing the classification system used for walleye management is contained at page 6 of the Plan. Walleye populations are assessed according to the biological characteristics listed in the chart and the department then assigns a category to a specific lake (trophy, stable, vulnerable or collapsed).

	Management Status Category			
Biological Characteristic	Trophy*	Stable	Vulnerable	Collapsed
Age-class Distribution	Wide, >8 yr. Classes Mean age, >9 yrs.	Wide, >8 yr. Classes Mean age, 6-9 yrs.	Narrow, 1-3 yr. Classes Mean age, 4-6 yrs.	Wide or narrow Mean age, 6-10 yrs.
Age-class stability	Very stable	Stable	Unstable	Stable or unstable
Growth (length-at-age)	Slow, 50 cm in 12-15 yrs.	Slow, 50 cm in 9-12 yrs.	Moderate, 50 cm in 7-9 yrs.	Fast, 50 cm in 4-7 yrs.
Age-at-maturity (mean age)	Females 10-20 yrs. Males 10-16 yrs.	Females 8-10 yrs. Males 7-9 yrs.	Females 7-8 yrs. Males 5-7 yrs.	Females 4-7 yrs. Males 3-6 yrs.
Catch Rate	>1-2 kept/hr.	0.5 kept/hr.	0.15 kept/hr.	0.05 kept/hr.

Population Decline ==========>> ==========>> ==========>>

(caused by overharvest)

Population Recovery <<========== <<========== <<==========

(needs restricted harvest)

* Trophy status (old growth) fisheries are sensitive populations that support low densities of better-than-average-size, old walleye

As at the date of the publication of the Plan in 1995, 19 lakes were considered to have old growth walleye populations and the ability to support trophy status. Stable status populations were found at about 26 lakes. Fishing pressure remained low to moderate because of access. About 70 lakes were considered vulnerable and 62 water bodies were placed in the collapsed status.

Walleye mature slowly and, according to departmental records reviewed, it is a slow process to reach healthy numbers of mature walleye. Walleye recruitment can be poor or sporadic and may be linked to climatic factors.

II. Calling Lake Classification

Calling Lake is located north of the Town of Athabasca along secondary highway 813. The pilot project will see part of the north half of the lake closed to angling and commercial fishing. During the open season, in the southern part of the lake, there is a bag limit of two pike ("jackfish") and one walleye of any size. Anglers are also allocated to keep 15 perch, 10 lake whitefish, and 10 burbot.

The closed area of the lake is defined on the department's web site as being: the portion northerly of a straight line drawn southwesterly from the point where the line intersects the eastern shore at the northern boundary of SE02-73-22-W4 to the point where the line intersects the western shore at the boundary of NE12-72-23-W4 and tributaries, including Rock Island River downstream of Secondary Road 813.

The open season for 2002-03 runs from May 17, 2002 to March 14, 2003. The lake was closed from April 1 to May 16, 2002 and will be closed on March 15, 2003 to protect spawning fish.

At the time the categories for walleye were created in 1995/96, Calling Lake was classified as "vulnerable." Based on creel surveys conducted in 1996 (and confirmed by test fisheries in 1998), that status was changed as of April 1, 1998 to "collapsed." A "collapsed" walleye population results in a zero bag limit for recreational fishing. That means that persons holding sportfishing licences must practice catch and release with respect to walleye.

"Collapsed" status does not mean that there are no walleye in a lake. According to information provided to us during this investigation, there are large walleye in Calling Lake (referred to by departmental staff as the "class of '91"). Both departmental staff and local residents said that the walleye in Calling Lake are larger than walleye found in other northern lakes in Alberta. The next significant class of walleye in Calling Lake, according to departmental staff, is the class of '97. Those fish are now five years old but, as noted above, are not considered mature. They may have spawned once and are of a size that would be attractive to an angler. The ACA staff confirmed during the interview that their data shows that the two healthiest populations at Calling Lake are the groups of walleye now 11 years old and 5 years old. They do not believe the other age groups at Calling Lake have strong population numbers.

Local residents and commercial fishermen we interviewed claimed that they have caught walleye of all sizes, and they believe there are sufficient numbers to warrant a change in the classification of Calling Lake. They do not accept that it is a collapsed lake.

Both departmental staff and local residents acknowledge that the spawning grounds for the walleye have been seriously impacted by recent drought conditions. There are other factors affecting the spawning grounds (such as beaver problems) but the weather conditions are considered the most serious factor. The last "average" rainfall year was 1997. There are concerns in the department that sufficient spawning to sustain the population has not been occurring since then.

A spawning study (or "population estimate") was conducted on the lake this year. There is evidence that walleye have been spawning in the lake in addition to the known spawning grounds on the tributaries feeding into Calling Lake.

Departmental staff and local residents disagree on the health of the walleye population in Calling Lake. Although public meetings are held at least annually, there does not appear to be agreement between the biologists who present data at the meetings and the experience of the local residents. The local residents we met with told us they feel that their experience is not taken into consideration and that they have not been successful in having any draft policy or amendment changed as a result of public meetings. According to departmental records, departmental staff felt there was stronger support for the classification of the lake expressed at various public meetings since 1998. Persons interviewed from fishing or conservation associations said that disputes between anglers and biologists regarding the health of a specific fish population at a particular lake are not uncommon. The ACA staff and departmental records suggest that the catch rate of local anglers may be higher due to the local residents' knowledge of a lake and the areas where the fish tend to migrate. The experience of local anglers may lead them to believe that there are healthier numbers than the data collected from creel surveys conducted with non-resident anglers.

Since the lake was classified as "collapsed" as of April 1, 1998, some local residents have sought to have the classification changed. One of the local residents we interviewed said that he approached the Minister in June 2001 to suggest that the Minister open half of the lake as was subsequently done for the pilot project. The line was moved further north than "halfway" to include all cabin owners on the east side of the lake within the open portion of the lake.

With respect to the pilot project, there has already been increased activity at Calling Lake. There was increased boat traffic on the lake the first two weekends after this investigation was announced. Lake residents agreed that there had been increased traffic but they expressed no concern that fish populations would be negatively affected. Conservation officers from the Athabasca office used roadblocks at the lake to monitor the fishing activities. In those two weekends, 28 violations were issued, including a violation to three anglers who held 20 walleye in their possession. The possession limit[3] for walleye is one fish of any size per person and is not a daily limit (i.e. you cannot fish for three days and keep three walleye – each walleye must be consumed before another walleye – on another day – is caught and kept). The department also views culling[4] as a violation of the sportfishing regulations.

The residents commented that since the lake was opened this fishing season, there has been increased monitoring of the lake. Initiatives have included electrofishing[5] and capture of fish with traps and nets. Conservation officials also stated that they had conducted a spawning survey on the lake this year and had removed beaver dams in an effort to clear tributaries used as spawning grounds by walleye. The increase in enforcement activities is also attributed to the pilot project. Additionally, transmitters have been placed

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[3] See definition for "Catch Limits" on page 20 in the 2002 Alberta Guide to Sportfishing Regulations for a more complete description of catch limits. The Guide is available on the department's website at http://www3.gov.ab.ca/srd/fw/fishing/ordrform.html.

[4] '"Culling" is staying within the catch limit for a species by releasing fish from a stringer or other holding device when a larger fish is caught. Fish that have been held on a stringer or in a tub usually die if released because of stress and because of damage to their gills, fins and scales.' (Page 21 of the 2002 Alberta Guide to Sportfishing Regulations)

[5] "... a field of electricity is passed through the water that causes a muscle response reaction from the fish forcing them towards the netsman. ... The main purposes for electrofishing are stock assessment, sample/health surveys, tagging, catching spawners, anaethetising or eliminating species."
(http://www.fisheriesmanagement.co.uk/electrofishing.htm)

in 12 fish to monitor their migratory habits in the lake. The conservation office will also continue with their test fisheries (largely conducted by volunteers who fish the lake and report to Fish and Wildlife on the success or failure of the volunteer angler's efforts). The ACA staff interviewed said they had been involved with initiatives such as the population estimate, the walleye telemetry (transmitters), creel surveys, test fisheries, and they will be involved in the fall walleye index netting.

At page 7 of the 2002 Guide to Sportfishing Regulations, the following comments are included regarding Calling Lake under "Important Changes for 2002":

> **Calling Lake (72-22-W4)**
> A pilot project for Calling Lake began April 1, 2002 to allow harvest of walleye and pike of any size. Success of the project requires that walleye and pike harvests do not exceed levels that the lake can sustain without harming population recovery (see Watershed Unit NB1).

III. Fisheries Management Generally

In March 1998, Alberta Environment published "A Fish Conservation Strategy for Alberta: 2000-2005." On page 3 of that publication is the following:

> **Fisheries Mandate**
>
> Fisheries are a replenishable Crown resource; it is incumbent upon the Government, as the resource steward, to ensure that appropriate use is made of the fisheries resource and that it is passed on to succeeding generations as it was received. The primary consideration of the Government is to ensure that fisheries populations are protected from severe decline and that viable populations are maintained. By virtue of the fact that all fish and wildlife resources and relevant legislation are the responsibility of Alberta Environment, it is to function as the advocate within government in the pursuit of this goal.

Responsibility for fisheries management was moved from Alberta Environment to Alberta Sustainable Resource Development following the last general election in March 2001. Mr. Cardinal became the Minister of Sustainable Resource Development on March 19, 2001 and Minister responsible for fisheries management at that time.

The various non-public servant biology professionals or members of fishing associations that were interviewed expressed the following concerns regarding fisheries management in Alberta.

- In some interviews, the strongest criticism related to comments regarding the public servant biologists. The persons raising these concerns expressed tremendous support for the departmental biologists and praised the work they carry out.

  The various fishing groups or conservation associations work with each other and the department in conducting various projects relating to fisheries management, including:

  - creel surveys -- conducted by the Alberta Conservation Association;
  - participation in conducting fish inventories;
  - participation in test fisheries;
  - habitat restoration;
  - public awareness campaigns; and
  - advocacy issues.

- Several comments were made regarding what these various groups or individuals felt was inadequate funding of Sustainable Resource Development. Several persons argued that sufficient resources – financial and human – are needed to properly manage the fisheries resources of this province and, in their view, that has not happened for several years. [This is a longstanding criticism of fisheries management in Alberta and recommendations relating to the need for increased resources are included in the May 1980 Report of the Legislative Assembly's own Select Committee on Recreational and Commercial Fishing Industries in Alberta.]

- Another general comment that was made by some of these individuals is that it would have been preferable to conduct proper studies on Calling Lake prior to opening the lake under a pilot project.

- A comment was made that the Calling Lake Pilot Project will be an excellent learning opportunity. The data collected as a result of the various monitoring initiatives will assist in future fisheries management decisions.

IV. Role of Hon. Mike Cardinal

According to his Statutory Declaration, Mr. Cardinal, as the Member of the Legislative Assembly for Athabasca-Wabasca, and a resident of the Hamlet of Calling Lake himself, has met with departmental staff and discussed by phone the concerns of the Calling Lake residents for at least 10 years. On behalf of his constituents, he voiced concerns regarding the classification status of Calling Lake for approximately the last five years. The conservation officials in Athabasca confirmed those discussions. Mr. Cardinal became the Minister of Sustainable Resource Development, with responsibilities for fisheries management, on March 19, 2001.

The Calling Lake residents interviewed were complimentary of the efforts of the Minister in opening the lake for walleye fishing. All the lake residents and commercial fishermen interviewed supported the decision. Dr. Fessenden's Statutory Declaration summarizes comments and information from the Calling Lake area received by the department through public meetings or correspondence and telephone calls. According to that information, not all residents support the pilot project decision.

Mr. Cardinal, in his statutory declaration states:

> Approximately one year ago a briefing session was held with departmental officials to review our walleye management strategies and the Management Status Category system. Several discussions occurred between myself and senior management in the department. The status of the lake was not changed but through discussions I made a decision to move forward with a pilot project on Calling Lake. Part of this pilot project included protection and enhancement of the natural spawning grounds by closing one part of the lake and also the clearing of beaver dams in the mouths of the rivers and creeks.

On April 11, 2002, the Minister was asked questions in Oral Question Period in the Legislature regarding Calling Lake. In response to the first question from Debby Carlson, Member for Edmonton-Ellerslie, at page 644 of *Alberta Hansard*, Mr. Cardinal said:

> The specific project at Calling Lake is new and innovative. We're looking at how we can protect and enhance natural spawning grounds instead of depending on the fish hatcheries that are there. Although the fish hatcheries are doing a good job also, we feel that natural spawning grounds are probably the ideal way to enhance the fish stocks in those lakes, and that's exactly what Calling Lake is about.

> At the suggestion of some commercial fishermen that are elders in the area to look at an innovative way of closing a portion of the lake by marking at the shorelines where the closure will take place and where it's going to be open -- Mr. Speaker, it's an innovative way where natural spawning and stocking will take place. It's a good area also for nesting grounds for birds. Ducks Unlimited, in fact, yesterday said that they were fully supportive of that particular plan.

Ms Carlson then asked the Minister why the project was going ahead "when his own technical staff tell him that it can't work." The Minister responded:

> Well, Mr. Speaker, we have over 2,000 staff in my department, and they do a heck of a job in managing our resources. Because there's some [sic] much pressure on our natural resources in the area of fisheries now, we have to be more innovative. It's something that hasn't been tried, but I know that the process has been tried in other jurisdictions, probably not in the inland lakes. Therefore, this plan will work.

Ms Carlson then asked how the project would be monitored and the Minister replied:

> Mr. Speaker, of course, we are restructuring in our department, and we have over 100 conservation officers that can monitor this process. It's not a problem.
>
> One thing to keep in mind. With these new processes in place, Albertans themselves will monitor the process. In fact, more than 99 percent of Albertans, I believe, are very, very honest. They wouldn't purposely break the law. They will no doubt follow what we've laid out.

In defending his departmental estimates in the Legislature on April 16, 2002, at page 727 of *Alberta Hansard*, the Minister said:

> . . . In the other area what we're doing is enhancing fish spawning through lake closures and other methods and introducing pilot projects. We have a pilot project that will be announced either today or tomorrow, and it's in my home community. Calling Lake is where I'm from. What that community has agreed to do is to look at a very innovative project there. That lake at one time had an abundance of fish: whitefish, tullibee, walleye, and pike. Through, of course, various pressures and I guess sometimes not taking the appropriate actions at the appropriate time to look at the natural spawning grounds, that lake had come to a near collapse situation as far as the walleye fisheries, and it was closed, whereas it was catch and release.
>
> What we are doing with that lake now is that we are changing the policies. As of May 15 you'll be able to keep one walleye, any size, and two jackfish, any size, and the fishermen will decide what fish is suitable for their family, but while we're doing that, we're also closing one-third of the north part of that lake, which is a natural spawning grounds, a natural nesting grounds, and that will become a sanctuary where we will not allow any fishing whatsoever. While we're doing that, we also will be opening up the beaver dams that have plugged up the natural spawning grounds, and there are two major natural spawning grounds, one river and one creek, that have been blocked for years now by beaver dams and other activities.
>
> So it's an innovative approach, and I think it's something that Albertans could possibly look at supporting across Alberta. I'm not sure if it's ever been done in Alberta or any other jurisdiction in Canada, but I think it's a unique concept of not depending solely on fish hatcheries and moving fish stocks around but enhancing the natural spawning grounds where they should be. I think it's a process that could work. It's something that's supported by the community, and the public I think will support it. I'll also definitely need the support of the opposition in this process. . . .

As identified in the Statutory Declaration of Deborah Owram, Deputy Secretary to Cabinet, the Minister raised the issue of fisheries management reinvestment at Agenda and Priorities on November 26, 2001. The matter was referred to the Standing Policy Committee on Energy and Sustainable Resource Development for a recommendation. The Committee reviewed the issue on January 28, 2002, and prepared its recommendations for Cabinet consideration. Mr. Cardinal brought the matter to Cabinet at its February 5, 2002 meeting. The Calling Lake Pilot Project was only one item included in the overall fisheries rationalization and reinvestment discussion, which also included the reduction of commercial fisheries. Cabinet approved the recommendations presented, including the Calling Lake Pilot Project. Mr. Cardinal's signature is on the "Record of Decision" from the February 5, 2002 Cabinet meeting.

Mr. Cardinal's Statutory Declaration confirms that the fisheries reinvestment went through Agenda and Priorities, the Standing Policy Committee, Cabinet, and caucus. He states in his Statutory Declaration that "As we were not bringing forward a change in the status of Calling Lake there were no regulatory changes necessary and no Orders-in-Council prepared." On pages 4 and 5 of his Statutory Declaration, Dr. Fessenden provides further detail relating to the normal process for amending sportfishing regulations generally. He states that no Orders-in-Council are required. The department provides recommendations to the Minister for approval and regulation changes are made by Variation Order under the *Alberta Fishery Regulations*, SOR/98-246, s3). Those Variation Orders are signed by the Director of Fisheries and then printed in the *Alberta Gazette*.

As stated in the Statutory Declarations of both the Minister and Mrs. Owram, the Minister did not declare a private interest and he did not withdraw from the meetings referred to above. He did participate in discussions on fisheries management reinvestment, including the Calling Lake Pilot Project. Mrs. Owram states that, to her knowledge, Mr. Cardinal did not vote on any decisions.

Dr. Fessenden states in his Statutory Declaration that he believes Mr. Cardinal mentioned his property around April 2001 and that "it was common knowledge among the executive staff of SRD."

With respect to why Calling Lake was chosen and whether other lakes were considered, the Minister said in his Statutory Declaration:

> After agreement was reached on Calling Lake we started to look to see if there were any other lakes that were suitable. It was agreed that we would do this pilot project and evaluate it and if we were successful then we would consider moving to other lakes. Staff has prepared a list of lakes that may be suitable for the project to be expanded to.
>
> . . . Calling Lake was chosen because I live there, and I am able to see first hand the fishing activity. As a result of having a residence on the lake for almost 25 years, I am more knowledgeable about its dynamics . . .

Dr. Fessenden provides further information surrounding other collapsed lakes in Alberta on pages 7 and 8 of his Statutory Declaration. He states that concerns were expressed by departmental staff with respect to expanding pilot projects because of monitoring capability concerns and the lack of pre-test data.

V. Property Values at Calling Lake

Mrs. Kanuga provided us with copies of listings of various properties at Calling Lake – both lakefront and in the community. The properties are listed with a variety of realtors in the area. Several of the properties have been on the market for several years. The following chart contains a brief summary of the information provided.

Legal Address	Details	Listed Price	Date/Years Listed
Lots 16 & 17, Block 3, Plan 782-0282	Direct frontage access to the lake and beach; 4-bedroom bungalow	$139,900	November 2, 2001
Lot 13, Block 3, Plan 772-0723	Lakefront lot, 3.23 acres	$59,000	January 17, 2002
Lot 2, Block 4, Plan 3798 KS	3-bedroom bungalow, north of ranger station, 150 feet from water	$49,000	Approximately 2 ½ years
Lot 3, Block 27, Plan 8021530	1.6 acres of waterfront property	$14,900	Approximately 10 years
Pt. Of SW 20-72-21-W4	1.03 acres of waterfront property	$25,000	Approximately 10 years
Pt. Of NW 17-72-21-W4	6-bedroom log home, lakefront, .83 acres	$52,500	Approximately 10 years
Lot 4, Block 24, Plan 8021530	Lakeback 2-bedroom bungalow	$30,000	
Lots 3 and 4, Block 1, Plan 782 2862	Back lake lot	$9,900	
Lot A, Plan 0641NY (Pt. Of NE 30-71-21-W4	2-bedroom bungalow, ½ acre	$159,000	May 10, 2002 (listed for 4 years)

Lots will vary in price depending on size and accessibility to the lake. The size and types of buildings on the lots will also affect the price (some properties listed above may have storage sheds, work outbuildings, boathouses, etc.).

Mrs. Kanuga said the main reason for the properties remaining on the market for such long periods is due to the theft and vandalism in the area. All the lake residents interviewed had experienced theft or vandalism of their property. All the residents agreed that increased resources to law enforcement would do more to increase property values than amending fishing regulations. The residents also stated that the opening of the lake would not increase property values.

MINISTERIAL RESPONSIBILITY

As stated earlier in this report, I have no jurisdiction to look into the question of whether the decision regarding the Pilot Project at Calling Lake was a correct or appropriate decision.

Under our parliamentary system, Ministers receive information and input from departmental officials, but Ministers retain the final responsibility for making a decision. The monitoring that will be undertaken at Calling Lake while the pilot project is being carried out will determine whether there are sustainable populations of fish, particularly walleye, in Calling Lake.

The decision to have a pilot project at a lake in the Minister's own riding, by itself, is not a matter I would look into under the *Conflicts of Interest Act*. Evidence of a "private interest" is required in order for me to conduct an investigation. I have commented in previous investigation reports that I would not normally consider a "political interest" to be a "private interest."

Ministers are also Members of the Legislative Assembly and, as such, must represent their constituents. Decisions that affect or favour their constituents over other constituencies are political choices, and

Ministers and governments are held accountable for those decisions by their colleagues in the Legislature and by the voters at election time.

As the Minister said in his Statutory Declaration:

> Department officials said they thought the classification and regulations were right. I disagreed with the classification but the department never said to me that they did not believe we should go ahead with the pilot project. There was a healthy debate and discussion over various aspects of the whole issue . . .
>
> Biologists look at the science while I, as a Minister, have to find a balance and an innovative solution to address the concerns expressed by the biologists and the public.

During this investigation, concerns were raised with me regarding the comments made by the Minister with respect to the biologists in his department. As stated above, Ministers may accept or reject the advice from departmental officials. On this matter, I will only say that I found the departmental officials interviewed for this investigation to be conscientious public servants with a commitment to preserving and conserving the precious resources of this province – in fulfilment of the "fisheries mandate" noted earlier in this report. At no time did any of those public servants criticize the Minister or question his right or authority to make the ultimate decision to open a portion of Calling Lake.

FINDINGS

Private Interest of Hon. Mike Cardinal

As stated earlier in this report, the "private interest" in this case is the real property owned by Mr. Cardinal and his wife.

I. Alleged Breach of Section 2

In his request for an investigation, Dr. Pannu wrote:

> The question is whether the above policy decision, in which the Minister was apparently personally involved, could in any way further the Minister's private interest in violation of Section 2 of the Act. It seems apparent that any decision to open a particular lake to fishing, while maintaining a fishing ban on other lakes, would increase the value of recreational properties on the lake open to fishing . . .

For ease of reference, the relevant portions of section 2 state:

> 2 (1) A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.
>
> (2) Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must, if present at the meeting, declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.

(3) A Member who fails to comply with subsection (2) breaches this Act.

(4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

. . .

There are two subsections of section 2 that must be dealt with in considering whether a breach has occurred.

A. Section 2(1):

In order for a breach of section 2(1) to occur, a Member must take part "in a decision in the course of carrying out the Member's office or powers **knowing** that the decision **might further a private interest** of the Member . . ."

The Minister, in his Statutory Declaration, states ". . . I did not believe it was a conflict as I had nothing to gain financially or personally with the lake being opened."

Based on the information provided to me by local residents, the realtor, and conservation officials (both department officials and others), I am satisfied that it is unlikely that opening the lake will affect the property values in any significant way. The vandalism and theft at Calling Lake appears to be the most significant factor affecting property values at this time.

The increased traffic – both to and from the lake and on the lake – are also likely to be negative factors to local property owners. If fish populations are in fact not healthy, any short-term gain in property values would diminish if the lake has to be closed again.

I do recognize that an average Albertan might believe that a pilot project that opens up a previously closed lake might have beneficial effects on property values at that lake. It is therefore not surprising that I was asked to conduct this investigation. However, it is clear to me that, in this case, the decision is not likely to result in a financial benefit for the Member.

B. Section 2(2):

Section 2(2) has a different threshold for a breach to occur. Under section 2(1), the Member must know that a private interest might be furthered. Under subsection (2), where a Member **has reasonable grounds to believe** that the Member **has a private interest**, the Minister **must**, if present at the meeting, **declare that interest and must withdraw** from the meeting **without voting on or participating in the consideration of the matter.**

As stated earlier, the private interest in this case is the Minister's real property.

There is no question in my mind that the Minister had more than "reasonable grounds to believe" he had a private interest. In the Legislature itself, the Minister declares that "Calling Lake is where I'm from" and, in his Statutory Declaration, he states: "Calling Lake was chosen because I live there ..."

The private interest is declared.

Where private interests exist, the Act requires that a Member will remove himself or herself from the decision-making process. Other subsections of section 2 then set out the process that must be followed.

By the Minister's own admission, he did not follow the process outlined in section 2. The Minister, in his Statutory Declaration, states that he did not consider having another Minister make the decision to open Calling Lake "as I did not believe it was a conflict as I had nothing to gain financially or personally with the lake being opened." Mrs. Owram confirms that the Minister did not absent himself from Cabinet or Agenda and Priorities.

Subsection 2(2) deals only with voting on or participating in the consideration of the matter before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly. It does not deal with the Minister's participation in a discussion within his ministry.

While Dr. Fessenden confirms that the Minister did not raise his private interest during discussions surrounding the pilot project, the Minister's participation within the Ministry is not a breach of section 2(2). The Deputy Minister confirms that staff were aware of the Minister's property at Calling Lake. The department did not caution the Minister about a potential or real conflict of interest. None of the documentation provided by the department to me during this investigation notes the Minister's private interest in relation to the Calling Lake Pilot Project or sets out any concerns about a possible conflict of interest. Even if a potential conflict of interest had been raised in the department, internal department consideration of the Calling Lake Pilot Project would not have been a breach of section 2(2) by the Minister.

II. Alleged Breach of Section 3

In addition to the alleged breach of section 2 of the Act, the request for this investigation asked that I also consider whether sections 3 and 4 may have been breached as well.

> 3 A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child. 1991 cC-22.1 s3

Based on the information provided to me, I am satisfied that the Minister did not use his office or powers to influence or to seek to influence the decision on Calling Lake to further his private interests. The fact that some local residents have been very vocal in their disagreement regarding the classification of the lake is supportive of the Minister's decision and actions. I accept that the Minister acted in accordance with his statement that "Constituents had indicated to me that the lake was full of walleye, no matter what our biologists said and asked that I try and find a solution."

III. Alleged Breach of Section 4

> 4 A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child. 1991 cC-22.1 s4

I received no evidence from Dr. Pannu with his letter requesting the investigation with respect to this particular alleged breach. During this investigation, I received no evidence from the Department of Sustainable Resource Development or from any conservation association that indicated the Minister used

or communicated any information not available to the general public to further his private interests. On the contrary, the Minister has been very open in pursuing a change to the classification of Calling Lake and openly answered questions in the Legislature regarding the Pilot Project.

CONLUSIONS

I. Alleged Breach of Section 2

A. Section 2(1):

I accept that the Minister truly believes his private interests would not be furthered by the decision to open Calling Lake under the pilot project. I accept that his belief was reasonable in these circumstances.

I am satisfied that the Minister did not act to further his private interests. I accept that he was acting on requests from constituents to take action. Based on information provided by local residents, I believe that the Minister will not benefit financially.

I therefore find that the Minister did not breach section 2(1) of the Act.

B. Section 2(2):

The preamble to the *Conflicts of Interest Act* states, in part:

> WHEREAS Members of the Legislative Assembly are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence and trust in the integrity of each Member, that maintains the Assembly's dignity and that justifies the respect in which society holds the Assembly and its Members; . . .

Under the Act, Members have an obligation to separate their public responsibilities from their private interest and the preamble says that should be done in a manner that promotes public confidence and trust in Members.

Over the years, a number of Members have removed themselves from the Legislature, its committees, or from Executive Council or its committees after declaring a private interest. In some cases, the Members or Ministers have done so after consulting my office. In other cases, they identified their private interests and did so without consultation with my office. This is an important process with respect to meeting the obligations set out in section 2 of the Act and, indeed, is required under section 2(2) when a Member has reasonable grounds to believe a private interest exists.

In 1993, I issued a report regarding former Minister Dianne Mirosh with respect to an issue that arose in Cabinet that involved a company for which her brother worked. She removed herself from Cabinet discussions even though she was not legally required to do so. I complimented her for that action and recommended that the Legislature develop a process to advise my office when a person absented themselves from a decision before Cabinet or its committees. The legislation was amended to provide for a reporting to my office, and I do receive those reports whenever a Member absents himself or herself.

In this case, the Minister declared his private interest when he refers to the fact that he comes from Calling Lake in his comments in *Alberta Hansard* during consideration of his estimates. His property at Calling Lake is also identified in his disclosure documents on file with the Clerk of the Legislative Assembly. The Minister therefore is fully aware of his private interests. In his Statutory Declaration he states that he did not believe he had anything "to gain financially or personally with the lake being opened" and therefore believed he did not have a conflict.

The standard set by section 2(2) does not require the furtherance of a private interest. It is a breach to participate when a Member has reasonable grounds to believe the Member has a private interest.

In my view, Mr. Cardinal had three options.

(a) Mr. Cardinal could have sought the advice of my office and acted accordingly. He would have been protected against any allegations of conflict of interest had he done so.

(b) Mr. Cardinal was required to declare a conflict of interest at Cabinet, Agenda and Priorities and before the Standing Policy Committee meetings. He could have withdrawn from the meeting and asked another Minister to assume responsibility for the Calling Lake Pilot Project.

(c) Mr. Cardinal could have chosen another lake, even though he would have been less familiar with its history and would not have been as able to personally monitor the pilot project.

The Minister chose none of those options.

The Minister was required to declare his interest and withdraw from the meetings mentioned. Since he did not do so, I find that he is in breach of section 2(2).

II. Alleged Breach of Section 3

Based on the findings set out above, I find that the Minister did not use his office or powers to further or attempt to further his private interest. I accept that the Minister was acting on constituents' requests to take action.

III. Alleged Breach of Section 4

Based on the findings set out above, I find that the Minister did not use or communication information that was not available to the general public to further his private interests. The Minister was open and above board in his discussions with his departmental officials and with his colleagues in the Legislature.

SANCTIONS

The Minister is in breach of section 2(2).

I do not believe the Minister acted on this matter to personally benefit himself or his family. I do believe he acted in support of his constituents.

I recommend no sanction as I believe the Minister acted in good faith and because no financial benefit to the Minister is likely to occur.

I would, however, stress that the process outlined in section 2 is important to show the public that Members are aware of their obligations and act accordingly. Withdrawing from a meeting demonstrates to Albertans that the Member is aware of both the Member's private interests and the need to ensure that a decision must be seen to have been made in the public interest.

Robert C. Clark
Ethics Commissioner

APPENDIX H

STATUTORY DECLARATION

CANADA	)	IN THE MATTER of the *Conflicts of Interest Act* of Alberta, R.S.A. 2000, c. C-23
PROVINCE OF ALBERTA	)	AND IN THE MATTER OF the investigation by the Office of the Ethics Commissioner for the Province of Alberta, in regard to a complaint of an alleged contravention of the *Conflicts of Interest Act* by the Hon. Mike Cardinal, Member for Athabasca-Wabasca and Minister of Sustainable Resource Development.
TO WIT:	)	

I, the Honorable Mike Cardinal, Minister of Sustainable Resource Development, of the Hamlet of Calling Lake, in the Province of Alberta, DO SOLEMNLY DECLARE THAT:

1. I have duly personally provided my answers to all of those questions annexed hereto in Schedule "A" which were submitted to me by the Ethics Commissioner for the Province of Alberta.

2. With respect to the answers provided in Schedule "A" hereto, I hereby declare that all facts and details contained in my answers are accurate and truthful and are provided to the best of my knowledge, recollection, information and belief.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath by virtue of the *Alberta and Canada Evidence Acts.*

DECLARED before me at the City of Edmonton, in the Province of Alberta, this 24th day of July, 2002.

M. Cardinal
Mike Cardinal

A Commissioner for Oaths in and for the Province of Alberta

ERIKA C. GERLOCK
BARRISTER & SOLICITOR

Schedule A

INFORMATION TO BE OBTAINED FROM HON. MIKE CARDINAL

1. Please identify by legal description each lot at Calling Lake to which title is held by you, your wife, or you and your wife jointly and when the property was purchased.

Lot 4, Block 8C, Plan 8321845	**Purchased:**	**around 1978**
Lot 5, Block 8C, Plan 8321845	**Purchased:**	**around 1978**
Lot 5, Block 3, Plan 3280RS	**Purchased:**	**around 1980**
Lot 5, Block 4, Plan 3280RS	**Purchased:**	**around 1991**

2. Please identify which lots are lakefront lots and which are not lakefront lots.

   Lots 4 & 5, Block 8C, Plan 8321845 are lakefront lots and Lot 5, Block 3, Plan 3280RS and Lot 5, Block 4, Plan 3280RS are not lakefront lots.

3. Please identify which lots contain cabins or other permanent buildings that may be used as accommodations.

   Lot 4, Block 8C contains a permanent residence and Lot 5, Block 8C did have a cabin on it but it burnt a few years ago.

4. Do you or your family use any of the lots as a residence? If so, please identify the lot(s).

   Lot 4, Block 8C contains a permanent residence.

5. Do you or your family rent any of the properties to any other individual? If so, please identify which lot(s).

   None of the properties are rented.

6. Have you or your family ever rented any of the lots to other persons (non-Calling Lake residents)?

   Lot 5, Block 8C was rented but not for the last 10 years.

7. If the answer to item 6 is "yes," to your knowledge, were any of those persons renting the accommodations in order to have access to Calling Lake for recreational fishing?

   No

8. Have you had any of the lots to which you or your wife (separately or jointly) hold title at Calling Lake appraised in the last two years? If so, were those appraisals obtained with a view to listing for sale any of those lots?

The properties have not been appraised in the past two years.

9. Have you or your wife ever listed any of your Calling Lake properties for sale? If so, provide information regarding the lot, the date of the listing, and whether offers to purchase were received and accepted or rejected.

None of the properties have been listed for sale.

10. What factors do you believe affect the current values of property at Calling Lake?

1. **Market value of other properties that have been sold in the area**
2. **Crime rate**
3. **Demand for lakefront lots as a result of economic activity in northern Alberta**

11. Please confirm that you have Treaty 8 Status under the Federal *Indian Act*.

I am a Treaty Indian.

12. Are you aware of the sportfishing regulations as they apply to Indians as set out on page 17 of the 2002 Alberta Guide to Sportfishing Regulations?

> **Sportfishing by Indians**
> Indians do not need an Alberta Sportfishing Licence or WIN card for general sportfishing; however, they must have a WIN card and Sturgeon Fishing Licence before keeping a sturgeon (see Sturgeon Sportfishing). All sportfishing regulations must be followed. Indians are persons registered as Indians under the *Indian Act* (Canada).

Yes, I am aware of the regulations and I abide by them.

13. Please confirm that neither you nor your wife hold a commercial fishing licence in Alberta.

Neither myself or my wife hold a commercial fishing licence in Alberta.

14. Do you or your wife engage in domestic fishing operations (i.e. the use of nets) at Calling Lake?

Neither myself or my wife engage in domestic fishing operations at Calling Lake. I used a net about 10 years ago.

15. What methods have you used, as the Member of the Legislative Assembly for Athabasca-Wabasca, for gathering information regarding the status of Calling Lake with respect to fishing? In addition to the types of information-gathering methods used, please indicate the frequency and any other information you believe would be relevant to this investigation, including such information as numbers of people with whom you have discussed the issue and the kind of information they provided to you.

I spoke to a number of elders and old time commercial fishermen in my constituency as well as sport fishermen. These were ongoing conversations over the past five years as to the state of commercial fishing, sport fishing regulations, the number of walleye that were in Calling Lake, and the fact that Calling Lake was not collapsed and should be reopened, etc. The people that I spoke to included but were not limited to, Jim McFarland, Ralph Crawford, Ralph Johnson, Jim Bowzaylo and Dave McArthur.

16. Approximately when did you first contact Fish and Wildlife officials regarding a possible change in the status of Calling Lake?

As an MLA, I have discussed the issue of fisheries and commercial fishing rationalization for approximately 10 years but I also started expressing concern on the closure of Calling Lake and other lakes in the constituency approximately five years ago. Constituents had indicated to me that the lake was full of walleye, no matter what our biologists said and asked that I try and find a solution.

17. On what date did you become Minister of Sustainable Resource Development? Please also confirm that it was as of that date that you had responsibility for Fish and Wildlife management.

I became Minister of Sustainable Resource Development on March 19, 2001 and this was the date that I became responsible for Fish and Wildlife management as well.

18. Have you had responsibility for Fish and Wildlife management issues in any of the other portfolios you have held?

This is the first time I have had responsibility for Fish and Wildlife management issues.

19. Please outline with as much detail as possible, your actions as Minister of Sustainable Resource Development with respect to any review, discussion and decision regarding Calling Lake and its status using the Management Status Category system used by Fish and Wildlife.

Approximately one year ago a briefing session was held with departmental officials to review our walleye management strategies and the Management Status Category system. Several discussions occurred between myself and senior management in the department. The status of the lake was not changed but through discussions I made

a decision to move forward with a pilot project on Calling Lake. Part of this pilot project included protection and enhancement of the natural spawning grounds by closing one part of the lake and also the clearing of beaver dams in the mouths of the rivers and creeks.

20. Did the change in the status of Calling Lake require a Cabinet decision? If so, please provide information relating to the date the decision was brought to Cabinet and any Order-in-Council or regulation change that resulted from the decision.

The whole issue went through the process of A & P, SPC, Cabinet and Caucus. Calling Lake was one small part of a package regarding the fisheries revitalization. As we were not bringing forward a change in the status of Calling Lake there were no regulatory changes necessary and no Order-in-Councils prepared. As well, I discussed the issue of Calling Lake in the Legislative Assembly during my estimates and referred to the pilot project in my home community of Calling Lake.

21. Have you at any time advised any person within your ministry of your private interest (your real properties) at Calling Lake? If so, when did you provide that information and to whom? Please provide any documentation on this matter.

The Deputy and the Assistant Deputy Ministers within my department have been aware of the fact that I live at Calling Lake and my residence is on the lake. This was communicated verbally and it was never a secret, it was part of the discussions when we brought up doing a pilot project.

22. Did any official within your department ever raise your private interest at Calling Lake when the issue of the status of Calling Lake was under discussion? If so, who raised the interest and when was it raised? Please provide any documentation on this matter.

There was never any concerns raised by department officials regarding my private interest in Calling Lake.

23. Did you consider any other "collapsed" lakes in Alberta for pilot projects? If so, which lakes were considered and why were they not chosen for a pilot project?

After agreement was reached on Calling Lake we started to look to see if there were any other lakes that were suitable. It was agreed that we would do this pilot project and evaluate it and if we were successful then we would consider moving to other lakes. Staff has prepared a list of lakes that may be suitable for the project to be expanded to.

I have always been aware of what lakes are collapsed, vulnerable, etc. and in fact a map is hung in my office with those lakes designated.

Calling Lake was chosen because I live there, and I am able to see first hand the fishing activity. As a result of having a residence on the lake for almost 25 years, I am more knowledgeable about its dynamics and I was prepared to have a difference

of opinion with the biologists and make a stand; whereas the situation on other lakes I was not as familiar with and I was not on as strong footing.

24. Did you consider having another Minister make the decision to open Calling Lake as part of the pilot project (as the process is described in section 2(4) of the *Conflicts of Interest Act*)? If so, please provide further information. If not, please explain why that was not considered.

> **2** (1) A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.
>
> (4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

No I did not consider another Minister making the decision to open Calling Lake as I did not believe it was a conflict as I had nothing to gain financially or personally with the lake being opened.

25. Did your departmental officials express any concerns to you regarding the pilot project at Calling Lake? Please provide any documentation in which those concerns are set out and your responses to those concerns.

Department officials said they thought the classification and regulations were right. I disagreed with the classification but the department never said to me that they did not believe we should go ahead with the pilot project. There was a healthy debate and discussion over various aspects of the whole issue but I don't recall receiving any documents listing any concerns.

Biologists look at the science while I, as a Minister, have to find a balance and an innovative solution to address the concerns expressed by the biologists and the public.

APPENDIX B

STATUTORY DECLARATION

CANADA	)	IN THE MATTER of the *Conflicts of Interest Act* of Alberta, R.S.A. 2000, c. C-23
PROVINCE OF ALBERTA	)	AND IN THE MATTER OF the investigation by the Office of the Ethics Commissioner for the Province of Alberta, in regard to a complaint of an alleged contravention of the *Conflicts of Interest Act* by the Hon. Mike Cardinal, Member for Athabasca-Wabasca and Minister of Sustainable Resource Development.
TO WIT:	)	

I, DR. BOB FESSENDEN, Deputy Minister of Sustainable Resource Development, of the City of Edmonton, in the Province of Alberta, DO SOLEMNLY DECLARE THAT:

1. I have duly personally provided my answers to all of those questions annexed hereto in Schedules "A" and "B" which were submitted to me by the Ethics Commissioner for the Province of Alberta.

2. With respect to the answers provided in Schedules "A" and "B" hereto, I hereby declare that all facts and details contained in my answers are accurate and truthful and are provided to the best of my knowledge, recollection, information and belief.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath by virtue of the *Alberta and Canada Evidence Acts*.

DECLARED before me at the City of Edmonton, in the Province of Alberta, this 25th day of July, 2002.

A Notary Public in and for the Province of Alberta

SHANNON D. KEEHN
BARRISTER & SOLICITOR

DR. BOB FESSENDEN

SCHEDULE "A"

INFORMATION TO BE OBTAINED FROM DEPARTMENT OF SUSTAINABLE RESOURCE DEVELOPMENT

1. ***Please provide a brief explanation as to how Calling Lake came to be classified as "collapsed."***

I am advised by my staff that:

Public complaints about fewer and smaller walleye were investigated in the 1980s and 1990s and data showed that many populations had been over fished. This lead to the development of the department's Walleye Management and Recovery Plan which specifies that walleye populations will be classified as trophy, stable, vulnerable or collapsed. The plan was created through extensive Alberta public consultation in 1994/95 including 16 workshops with the public, one of which was held in Athabasca in the spring of 1995. The consultation process was guided through a Walleye Task Force that included representation from the Western Walleye Council, Walleye Unlimited, Alberta Fish and Game Association, commercial fishermen, an independent fisheries scientist from the University of Alberta, and several department staff. The workshops were followed by an open-house in many communities, where the new regulation strategies and planned lake classifications were shown to the public.

The management plan contains a population classification table with 5 factors used to assess walleye populations in Alberta. The plan also includes regulations that correspond to each population classification and increase protection of the fish population as the population decreases from "stable" to "vulnerable" to "collapsed". The Walleye Management and Recovery Plan was completed in 1995 and new regulations were put in place in 1996. Calling Lake and most other lakes in NE Alberta were initially classified as "vulnerable" because current status data was not available. These lakes were to be evaluated as soon as current information was available.

A creel survey was completed at Calling Lake during the summer of 1996. The data showed that there were very low numbers of young fish and only one strong age-class of adults. The 5 parameters of the classification table indicated that the population should be classified as "collapsed" and the regulations were changed to 0-bag limit for 1 April 1998.

There was no public consultation meeting for this change to "collapsed" because of the very recent and positive response to the population classification table in the development of the Walleye Management Plan. That public consultation process created a standard assessment for populations with corresponding regulations. The plan was to be used to assess populations and then apply the designated regulation without further public presentations, thus saving staff time for other work. However, at Calling Lake some people were upset that the population status of the lake had changed. A staff member presented the available

information at a public meeting in Athabasca on March 31, 1998 and most of the people who attended supported the 0-bag limit regulation to give the fish stock time to recover. People were concerned that collapsed meant no fish when they could still catch some large fish. They were advised that fish were still present but not in healthy numbers or with a good age-class distribution. This conflict also lead to a procedural change so that public consultation was required before future proposed regulation changes could be forwarded to Fisheries Headquarters (HQ).

Fisheries staff did further assessment work in 1998 which confirmed the 1996 results.

2. ***Explain the process followed in deciding to open a portion of Calling Lake in 2002. Provide documentation relating to any discussion and the decision with respect to the "pilot project" at Calling Lake. Provide an explanation of the "pilot project" Calling Lake (e.g. its time lines, monitoring, surveys, etc.)***

I am advised by my staff that:

Minister Cardinal was interested in the fishing issues at Calling Lake in 1998, 1999 and 2000 before he became the Minister of Sustainable Resource Development (SRD) in March of 2001. (Please refer to my response to question #5).

On becoming Minister he asked for information on Catch-and-Release Fishing Regulations as well as the status of Calling Lake and Walleye Management. In the fall of 2001 he asked for a regulation change on Calling Lake.

The following summary outlines, in more detail, the process that was followed in deciding to open a portion of Calling Lake in 2002, including references to discussions and the decision with respect to the pilot project.

- April 11, 2001, Minister/Deputy Minister meeting regarding Calling Lake walleye fishery
- April 11, 2001, e-mails among SRD staff regarding Minister's request for a Calling Lake Walleye Plan;
- April 12-19, 2001, e-mails among SRD staff regarding draft of Calling Lake briefing summary for the Minister
- April 20, 2001, material prepared for the Minister on the Walleye Management Strategy for Calling Lake, Alberta's Walleye Management Plan and status of Calling Lake walleye fishery;
- April 24, 2001, e-mail sent from SRD staff to Assistant Deputy Minister regarding Calling Lake walleye population;
- May 2, 2001, Minister/Deputy Minister meeting regarding Calling Lake
- May 9, 2001, Minister/Deputy Minister meeting regarding Calling Lake Action Plan
- Oct. 18, 2001, Action Request issued to SRD staff to provide Briefing Note/Advice to Minister regarding Pilot Project for Calling Lake;
- Oct. 30, 2001, e-mail sent to SRD staff from Minister's office requesting list of other possible lakes for partial closure like at Calling Lake;

- Nov. 2, 2001, e-mails among SRD staff regarding development of a monitoring program for Calling Lake plus an attachment outlining biological and fisheries management issues associated with the Calling Lake Pilot Project;
- Nov. 2, 2001, Draft Briefing Note prepared by SRD staff for the Minister/Deputy Minister regarding the collapsed status for walleye in Calling Lake;
- Nov. 5, 2001, e-mails among SRD staff regarding the spring closure for Calling Lake;
- Nov. 6, 2001, Briefing Note prepared by SRD staff for the Minister/Deputy Minister regarding the collapsed status for walleye in Calling Lake;
- Nov. 13, 2001, e-mails among SRD staff regarding the boundary line on Calling Lake;
- Nov. 14, 2001, Briefing Note prepared by SRD staff for the Minister/Deputy Minister regarding the collapsed status for walleye in Calling Lake;
- Nov. 15, 2001, e-mails among SRD staff regarding decision not to proceed with pilot projects on other lakes until the Calling Lake Pilot Project is evaluated;
- Dec. 5-14, 2001, e-mails among SRD staff regarding the preparation of the 2002 regulation amendment package for Calling Lake to be sent to the Minister;
- Dec. 5, 2001, Minister/Deputy Minister meeting regarding Calling Lake
- Dec. 17, 2001, e-mail among SRD staff regarding Calling Lake regulations;
- Dec. 18, 2001, Minister/Deputy Minister meeting Re: changes to Sportsfishing Regulations for Calling Lake
- Dec. 18, 2001, e-mail among SRD staff regarding Calling Lake pike harvest figures
- Jan. 18, 2002, signed copy of Minister's approval to amend Sportfishing Regulations for Calling Lake in the year 2002;
- Jan. 22, 2002, Minister/Deputy Minister meeting regarding required changes to Sportfishing Regulations for Calling Lake in 2002
- Feb. 4, 2002, e-mails among SRD staff regarding Calling Lake "round table" meeting on January 23, 2002;
- Feb. 26, 2002, e-mails from Minister's office and among SRD staff regarding spring closure dates for Calling Lake;
- March 6, 2002, Minister/Deputy Minister meeting regarding spring closure dates for Calling Lake;
- March 14, 2002, News Release – "Get your sportfishing licence & fishing regulations guide now"
- April 8, 2002, e-mails from Minister's office and among SRD staff regarding spring closure dates for Calling Lake;
- April 11, 2002, Hansard On-line – Minister's response to questions regarding Calling Lake Fishing Zones;
- April 16, 2002, Hansard On-line - Minister's comments regarding the Calling Lake Pilot Project;
- April 23, 2002, e-mails among SRD staff about public meetings regarding the Calling Lake Pilot Project being held in the Minister's riding;
- April 23, 2002, e-mails among SRD staff on fisheries science aspects of fish reserves;
- April 24, 2002, Minister/Deputy Minister meeting regarding other lakes which could implement the Calling Lake Pilot Project
- April 29, 2002, e-mails among SRD staff regarding Calling Lake walleye: target and status;

- May 1, 2002, e-mails among SRD staff regarding timelines required to collect, enter, analyze and report the Calling Lake Pilot Project data;
- May 6, 2002, e-mail among SRD staff regarding walleye population estimate at Calling Lake
- June 28, 2002, memorandum prepared by SRD staff regarding the preliminary status of fish reserve experiment at Calling Lake;
- July 2-18, 2002, e-mails among SRD staff regarding preliminary data interpretation from Calling Lake (May and June 2002)

I am advised by my staff that on April 1, 2002, a new fisheries management strategy, the Calling Lake Pilot Project, was initiated on Calling Lake for a 5 year period. The objective is the continued recovery of the walleye and pike populations while allowing a controlled harvest. The main points of this project include:

- The northwest portion of the lake will be closed to angling and commercial fishing throughout the year
- The southeast portion of the lake will be closed to all fishing for the spring spawning season.
- During the open season on the southeast portion of the lake, there will be a bag limit of two pike and one walleye of any size.
- Fish spawning grounds will be enhanced through removal of beaver dams and other methods.
- Through capture and marking of some fish, biologists will document spawning areas and fish movements, as well as make a population estimate.

Please also refer to my response to question #10 for an outline of the assessment work planned for Calling Lake in 2002.

3. ***Explain the process for amending sportfishing regulations, including public consultation and timing for printing for next season. Please explain whether amendments to the sportfishing regulations require Cabinet approval and, if so, explain how the amendments are presented for Cabinet decision through to the printing of the regulations (for example, preparation and signing of an Order-in-Council and printing in Alberta Gazette or elsewhere). If they do not require Cabinet approval, do they require ministerial approval?***

It is my understanding that the process for amending Sportfishing Regulations is that outlined in a document that I have attached to Schedule "B" of my statutory declaration. The amendments to the sportfishing regulations do not require Cabinet approval. However, a regulation amendment package is submitted to the Minister for review and approval.

A brief summary of the usual process for amending regulations that fit into existing species Management and Recovery Plans, is as follows:

- Regional staff become aware of fisheries related issues through public comments or from field work.
- Regional staff collect information and decide if an amendment to the regulation is needed and what options exist.
- Regional staff hold a public meeting and discuss the issues with the public and then submit a regulation proposal to Fisheries HQ.
- if HQ staff agree with the proposals then the proposed regulation amendments are sent to the executives of the sportfishing stakeholder organizations for comments.
- in November, HQ sends a final package with recommendations to the Minister requesting his approval to implement the changes.
- if approval is received, these types of regulation changes are made by Variation Order (*Alberta Fishery Regulations*, SOR/98-246, s. 3) signed by the Director of Fisheries and printed in the Alberta Gazette, for implementation the following April 1.
- all changes must be given to the printer by mid-January at the latest so that printing of the Guide to Sportfishing Regulations can proceed in time to be distributed in late March before the new fishing year starts.

More substantial regulation changes generally take two years to approve, which allows for public notification of the proposed change to be printed in the Guide to Sportfishing Regulations in the year before the regulation would come into effect. This also helps to satisfy the Federal Government's demand for public consultation before regulation amendments are considered. Some fisheries regulation amendments cannot be made by Variation Order and these must be sent to Ottawa for review and processing through the Federal Privy Council process.

4. ***What consultations have occurred with Calling Lake residents since the lake was classified as "vulnerable" and later, "collapsed"? Provide any documentation regarding annual meetings or special meetings on the subject of the status of the lake.***

I am advised by my staff that a series of public meetings have occurred since the lake was classified as "vulnerable" and later, "collapsed". The meetings have not been restricted to Calling Lake residents since the interest in this fishery extends well beyond the immediate area. The following is a list of the meetings that have taken place on the status of Calling Lake.

- March 30, 1998, Calling Lake Community Meeting
- March 31, 1998, Athabasca Sport Fisheries Public Meeting
- April 15, 1998, Natural Resources Staff/Calling Lake Domestic Fishermen/ Bigstone Band Members Meeting
- March 17, 1999, Athabasca Fisheries Management Public Meeting
- March 23, 1999, Trapper Meeting
- March 26, 1999, Calling Lake Fisheries Meeting
- March 29, 2000, Athabasca Fisheries Management Public Meeting
- December 4, 2000, Public Meeting, Calling Lake Community
- August 23, 2001, Athabasca Fisheries Meeting

- January 23, 2002, Calling Lake Round Table meeting
- April 24, 2002, Calling Lake Fisheries Meeting
- April 25, 2002, Athabasca Fisheries Meeting
- June 27-July 2, 2002, e-mails between SRD staff and an individual regarding status of Calling Lake

5. ***What has been the reaction of the Calling Lake residents to the classification of the lake? Provide documentation that shows support or opposition to the classification.***

I am not aware of the reaction of the Calling Lake residents, specifically, to the classification of the lake. However, staff advise me that initial reaction to the collapsed status (0-bag limit) was generally negative because fishing had recently improved and was better than it had been in many years. Domestic fishermen could catch many walleye in nets set in the spring in spawning areas. Commercial fishermen were concerned because their walleye catch was closing the commercial fishery before the lake whitefish target species quota was taken. MLA Cardinal met with staff on February 17, 1998 and March 22, 1998, to express concerns on behalf of his constituents about the impending 0-bag limit for walleye. MLA Cardinal requested a meeting for January 20, 1999 with the Assistant Deputy Minister and met with staff again on January 17, 2000. This was still an issue in July 2000.

My staff advise me that the reason for the walleye classification of "collapsed" was given at a public meeting in Athabasca on March 31, 1998. Most but not all attendees accepted the reason for the regulation status to rebuild a healthy walleye population in Calling Lake. At the August 23, 2001 meeting, there was still good support for the 0-bag limit regulation on Calling Lake. Only one individual spoke against the regulation stating that the number of walleye should be reduced so that fewer walleye would mean less interference with the commercial fishery.

My staff advise me that most of the local people support the new pilot regulation because they can kill a fish. However, some people have expressed concern about the increase in fishing pressure and the number of fish being harvested when they expected this to remain a fishery for the locals. An informal poll conducted by an SRD staff member when he encountered fishermen at the boat launch also suggests most but not all fishermen like the regulation. That individual and one other staff member have advised that they received 4 and 1 phone calls respectively, from people opposed to the regulation change.

Although the question is about Calling Lake residents, I am advised by my staff that many more people from a much wider area are interested in or use this public resource. There have been 7 letters received in HQ that are not supportive of the Minister's actions and one letter expressing support but asking why there are no small fish. We have also seen comments from the Virtual Flyfishing web site and numerous letters in the papers that generally are not supportive of the Minister's actions.

6. ***Did the Minister at any time declare his private interest at Calling Lake (i.e. his property at Calling Lake)? If so, when and how and to whom? Provide documentation if any.***

To the best of my recollection, the Minister mentioned that he owned property at Calling Lake around April 2001. I do not know who the Minister specifically advised of this but I believe it was common knowledge among the executive staff of SRD.

7. ***Did any person in the Department of Sustainable Resource Development raise the issue of the Minister's private interests at Calling Lake during any discussion of fish management at Calling Lake? If so, when and how and who raised the issue? Provide documentation, if any.***

Not that I am aware of.

8. ***Were any other "collapsed" lakes considered for pilot projects? If so, which lakes and why were they not chosen? If no, why were no other lakes considered? If no other lakes were recommended, which lakes would the department recommend for considering of a similar pilot project?***

I am advised by my staff that for 2002 implementation, no other lakes were considered for pilot projects. The initial instruction was to implement a 5 year pilot project at Calling Lake and to monitor the situation and look at implementing the pilot at other lakes. An initial list of possible sites for more detailed consideration included collapsed populations at Christina, Island, Rock Island, La Biche and Gregoire lakes and the vulnerable populations at Orloff Lake. This did not proceed because of a decision by the Minister/Deputy Minister to monitor the Calling Lake results before considering to expand the project.

Staff were also concerned that the proposed regulation offered less protection than the walleye populations needed. A lack of pre-test data and shortage of resources to monitor more than 1 site would also have been issues to pilot expansion.

In April of 2002, Department staff were asked to provide a list of possible lakes that could be considered for pilot project implementation in the future. Staff advised that the collapsed populations (includes stocked-developing populations) at Forty Mile Reservoir, Keho Lake, Wadlin Lake, Haig Lake and the vulnerable or stable walleye populations at Spencer Lake, Winefred Lake, and South Wabasca Lake plus the pike populations at Tilley "B" Reservoir and Cowoki Lake, could be considered but more detailed review was required. A Briefing Note was forwarded expressing concerns that the fishing reserve concept did not appear to be biologically feasible in Alberta and that small lake size and extensive development around lakes would eliminate most from consideration for this type of regulation. This was discussed with the Deputy Minister and Assistant Deputy Minister and the Deputy Minister advised he would provide further direction after talking to the Minister.

Staff were subsequently asked to compare Orloff, Fawcett, Rock Island, Sandy, North & South Wabasca, La Biche and Beaver lakes to Calling Lake. The Rock Island, Sandy and La Biche lakes walleye populations are in the collapsed category. A draft assessment was completed looking at how well the situations at those lakes matched the Calling Lake conditions. In most cases the lakes were not recommended for pilot project expansion because they were quite different from Calling Lake in size, or the walleye populations was very weak, or angling pressure was high, or there were problems trying to define zones. A meeting was set up to discuss this with the Deputy Minister and Assistant Deputy Minister but the Deputy Minister was called away to the Minister's office just as the meeting was about to start.

In late June 2002, the Minister's office requested identification of 2-3 lakes (possibly in the Slave Lake area) where the pilot project regulations could be implemented. The Assistant Deputy Minister requested that the list also include all other lakes where staff were currently looking at possible changes to the walleye regulations that would allow more harvest opportunities. The recommended list of lakes included Wadlin Lake (collapsed category because it was stocked), South Wabasca Lake (vulnerable category) and Vincent Lake (collapsed category because it was restocked) for further assessment and public consultation as pilot projects, plus 5 additional lakes staff are currently evaluating for other regulation changes.

9. ***Have the residents of any other lake (in the constituency of Athabasca-Wabasca or any other constituency) requested a similar pilot project since the Calling Lake pilot project was announced?***

One request was received on 4 July 2002 from the Rich Lake Recreation and Agricultural Society (Lac La Biche-St. Paul constituency). Their request was to change the angling regulations at Fork Lake to set the pike limit at the first two fish caught per day regardless of size, and possibly to close the breeding grounds. (Note: the entire lake is already closed to angling from April 1st to the Friday of the May long-weekend each year, which includes the normal spawning season for pike, perch and walleye).

10. ***What steps have been taken, are being taken, and will be taken in connection with the pilot project to measure fish populations at Calling Lake?***

I am advised by my staff that the following work has been planned for May 2002 to March 2003, between department staff and Alberta Conservation Association (ACA) staff.

- mid-May to June - capture fish with traps and nets and electrofishing, mark some document capture locations;
- May long-weekend through August - ACA to run creel survey;
- late May to late September - ACA to implant electronic tags and track walleye movements;
- mid to late September - Fall Walleye Index Netting;
- October through November – data entry and fish ageing;
- December – data analysis;

- January to mid February – report preparation.

This pilot project is scheduled to run for 5 years since populations take time to respond depending on their initial status and harvest pressure. This may change depending on the response of the walleye population. The creel survey should be repeated in 3-5 years, but future work will also be determined by staff and public reports on the health of the fishery.

SCHEDULE B

SPORTFISHING REGULATION DEVELOPMENT

A. Legislative and Department Direction for Regulation Development

- *Fisheries Act* (Canada) and *Alberta Fisheries Regulations*.
- *Fisheries* (Alberta) *Act*, *General Fisheries* (Alberta) *Regulations* and *Fisheries* (Ministerial) *Regulation*.
- Departmental Business Plans.
- A Fish Conservation Strategy for Alberta.
- Provincial Species Management and Recovery Plans.
- Fish and Wildlife Policy for Alberta.

B. Short and Long Term Planning Direction for Regulation Development

- Biologically sound and sociably acceptable regulations based on scientific information and public opinion.
- Move away from province-wide regulation to water body-by-water body regulation.
- Implementation of species management plans involving public advisory committees and public workshops (Bull Trout, Golden Trout, Lake Sturgeon, Walleye, Arctic Grayling and Northern Pike complete, but ongoing, and Yellow Perch and Lake Trout scheduled).
- Development of regulations relating to province-wide concerns involving public advisory committees and public workshops (East Slopes Stream Review, Spring Spawning Closures, and Lower Bow River Review complete, and Sportfishing Licence Review near complete).

C. Population Evaluation and Monitoring Pertinent to Regulation Development

- Water body surveys (angler creels and population density inventories).
- Surveys of Recreational Fishing in Canada (Alberta component, five-year intervals from 1975 through 2000).
- Sportfishing Licence sales statistics provided through IBM licensing system.

D. Regulation Development Process

1. Consultation with stakeholders

- Multi-tiered public involvement and consultation process providing Albertans opportunities to become involved in fisheries management and regulation reviews.
- Ongoing, year round, gathering of opinions, concerns and proposals for change.
- Meetings held in various locations for local public review and input on water body specific proposed regulation options.
- Alberta Fish and Game clubs, Trout Unlimited Canada, Western Walleye Council, Walleye Unlimited Foundation, Alberta Sportfishing Industry Association.
- Formal opportunities for public input through public advisory committees.

- Annual announcement in Alberta Guide to Sportfishing regulations encouraging public comments on future proposals.

2. **Detailed investigation of issues by staff (Year Round)**
   - Evaluate available survey and harvest data, and collect additional data.
   - Examine findings published in scientific journals and from adjacent jurisdictions.
   - Consider public opinions and stakeholder views.
   - Examine options as possible proposals for regulation changes.
   - Discuss findings and issues with District Enforcement staff for input and opinions.
   - Proposals reviewed with Headquarters Fisheries to ensure regulatory and administrative feasibility.

3. **Annual spring meeting of biological staff (June)**
   - Review existing regulations and seasons.
   - Identify and discuss problems, concerns and new issues.
   - Determine information required to properly evaluate issues.
   - Review input received from stakeholders and consider potential proposals for change.

4. **Development of water body specific proposals by Regional Fisheries (June-August)**
   - Examine options as possible proposals for regulation changes.
   - Proposals reviewed with Headquarters Fisheries to ensure regulatory and administrative feasibility.
   - Formal presentation and discussion at local, regional and provincial level with sportfishing organizations, and at publicly announced meetings.
   - Changes that may affect subsistence fishing, such as closures to all fishing, also require native consultation processes prior to approval.
   - Submission of proposals to Headquarters Fisheries for review and compilation into provincial package.

5. **Development of detailed provincial proposals by Headquarters Fisheries (September-October)**
   - Examine regional submissions and discuss changes with regional staff.
   - Compile regional submissions into provincial package and submit to executives of major sportfishing organizations for review and comment.

6. **Final recommendation package for Minister (November)**
   - Formal submission of regulation amendment package to the Minister for review and approval.
   - Changes to sportfishing regulations fall under the *Alberta Fishery Regulations* pursuant to the federal *Fisheries Act* (Canada) rather than provincial

APPENDIX C

CANADA)
)
PROVINCE OF ALBERTA)
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TO WIT:)

IN THE MATTER OF the *Conflicts of Interest Act*, 2002 Revised Statutes of Alberta, c. C-23, and

IN THE MATTER OF a complaint of an alleged contravention of the *Conflicts of Interest Act* by the Hon. Mike Cardinal, Member of the Athabasca-Wabasca and Minister of Sustainable Resource Development.

STATUTORY DECLARATION OF

DEBORAH OWRAM

I, Deborah Owram, of the City of Edmonton, Alberta, Deputy Secretary to Cabinet, do solemnly declare as follows:

1. I have duly personally provided my answers to all of those questions annexed hereto in Schedule "A", which were asked by the Ethics Commissioner for the Province of Alberta.

2. With respect to the answers provided in Schedule "A" hereto, I hereby declare that all facts and details contained in my answers are accurate and truthful and are provided to the best of my knowledge, recollection, information and belief.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under Oath.

DECLARED BEFORE ME at the City of Edmonton, in the Province of Alberta, this 19 day of JULY, 2002

David B. Chiswell

A Commissioner for Oaths in and for the Province of Alberta
DAVID B. CHISWELL
BARRISTER AND SOLICITOR

DEBORAH OWRAM

SCHEDULE "A"

1. **Has the subject of fish management at Calling Lake been raised at any meeting of Executive Council or any of its committees, including Treasury Board or Agenda and Priorities?**

   Yes. The policy review of fisheries management reinvestment was before the Agenda and Priorities Committee, the Standing Policy Committee on Energy and Sustainable Development and Cabinet as a result of documentation, which in part referred to the Calling Lake Pilot Project.

   Treasury Board has not reviewed the fisheries management reinvestment documentation nor its reference to the Calling Lake Pilot Project.

2. **On what date was the subject raised and by whom?**

Agenda and Priorities Committee	*November 26, 2001*
Standing Policy Committee on Energy and Sustainable Development	*January 28, 2002*
Cabinet	*February 5, 2002*

   The policy review of fisheries management reinvestment was before the above Committees and Cabinet as a result of documentation, which in part referred to the Calling Lake Pilot Project, submitted by the Hon. Mike Cardinal, Minister of Sustainable Resource Development.

   The Calling Lake Pilot Project was raised again at the June 24, 2002 Cabinet Meeting.

3. **Was a decision of Executive Council required? If so, was Order-in-Council prepared and signed?**

   The Cabinet approved the Calling Lake Pilot Project on February 5, 2002. No Order-in-Council was required to implement the decision. In regard to the Calling Lake Pilot Project, no decision was made at the June 24, 2002 Cabinet meeting as that item was an information update.

4. **If the issue has been raised at Executive Council, did the Minister of Sustainable Resource Development declare a private interest and remove himself from the meeting?**

   No. The Minister of Sustainable Resource Development did not, to my knowledge, declare a private interest and remove himself from the respective meetings referred to in my response to Question 2.

5. **If the Minister of Sustainable Resource Development did not declare a private interest, did he participate in the discussion? Did he vote on the decision, if any?**

   The Minister of Sustainable Resource Development participated in the discussions at the Committee and Cabinet meetings referred to in my response to Question 2, but, to my knowledge, did not vote on any decisions.